

EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CERTIFIED COPY

JOEL GOLDMAN,

Plaintiff,

vs.

HEALTHCARE MANAGEMENT SYSTEMS, INC.)
and THOMAS E. GIVENS,

Defendants.)

CASE NO.
1:05 CV 0035

THE DEPOSITION OF

JOHN DOSS

Taken on Behalf of the Plaintiff

April 21, 2006

ATKINSON-BAKER, INC.
COURT REPORTERS
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Reported by: Edward F. Kidd, Registered Professional
Reporter and Notary Public

FILE NO.: A002EAA

1 A. Uh-huh.

2 Q. Can you find Exhibit 47. It's a contract with
3 Gilmore.

4 A. Yes.

5 Q. There is a provision in this contract that
6 relates to depositing an escrow copy of the source code
7 with an escrow agent. Do you know what paragraph
8 number that would be?

9 A. No, normally it was near the back. I don't
10 know.

11 Q. Why would an escrow -- were escrow agreements
12 included as a part of every contract?

13 A. No, there is an escrow agreement on page 32.
14 Is that what you're thinking about?

15 Q. I was thinking of a spot within the body of the
16 contract that referred to the escrow agreement, and
17 perhaps that contract just happened to leave it out.
18 Because I think I remember seeing it in at least one
19 other contract.

20 Why would HMS include an escrow agreement as
21 part of an agreement with the hospital?

22 A. Generally we did that because the hospital
23 requested it.

24 Q. Why would a hospital request an escrow copy of
25 the source code be available?

1 A. I think it was their perception that that gave
2 them some security if HMS ceased to do business.

3 Q. Who was the company's escrow agent?

4 A. Our law firm.

5 Q. Would that be Bone, McAllester?

6 A. I believe it was Wyatt Tarrant at this time.

7 Q. Was the contact person Keith Dennen?

8 A. Yes.

9 Q. If you go to Exhibit 48, and then turn to page
10 40?

11 MS. JACOBS: 48?

12 BY MR. SMITH:

13 Q. Exhibit 48, page 40?

14 MS. JACOBS: We're not finding it.

15 THE WITNESS: Maybe it's here. Okay. And
16 the page number was...

17 BY MR. SMITH:

18 Q. Forty. It appears at this point that Bone,
19 McAllester became the escrow agent?

20 A. Yes, uh-huh.

21 Q. Do you know how the physical, how that
22 physically worked? Did Bone, McAllester receive a
23 physical copy of the company's source code?

24 A. Yes, they were supposed to.

25 Q. So how often did they receive a new physical

1 copy?

2 A. Generally speaking, once a year, in some cases
3 a little more frequently.

4 Q. So would Bone, McAllester have had a copy of
5 the company's source code continuously since July 2002?

6 A. Since July 2002?

7 Q. And I use that date because that's the date of
8 the contract in Exhibit 48?

9 A. Oh. They should have, the way the process
10 worked was when we had a release, then they would get
11 basically just a fresh copy of the source.

12 Q. What would they do with the old copy?

13 A. They were supposed to destroy it or return the
14 tape to us.

15 Q. They received it in the form of a magnetic
16 tape?

17 A. Uh-huh.

18 Q. That was a yes?

19 A. Yes.

20 Q. Do you know what happened to the magnetic tape
21 that they would have had in January 2005?

22 A. January 2005, again, I have -- I don't have
23 knowledge of that particular tape. I can say that the
24 process says that they would have either returned the
25 tape to us or they would have just thrown the tape

1 away, which they probably returned the tape to us. But
2 I don't know.

3 Q. But are you certain they had a copy of your
4 source code between, say, January 2005 and March 2005?

5 A. Well, they would have had one from some date.
6 I'm not sure what you're asking me.

7 Q. In their possession did they have a physical
8 tape of HMS's source code from January 2005 to
9 March 2005?

10 A. Do you mean during that period of time did they
11 have one?

12 Q. Yes.

13 A. Or did they have -- do you mean was it
14 generated during that period of time?

15 Q. No, sir. Did they have a copy, recent,
16 relatively recent source code in their possession for
17 the two or three months that we're talking about, and
18 when I say they, I mean the law firm of Bone,
19 McAllester?

20 A. They should have.

21 Q. Mr. Doss, as far as you know were you involved
22 at all in document retention and document storage
23 policies at the company?

24 A. I'm not sure what you're asking me.

25 Q. Well, let me -- I'll ask you and then we'll go